

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE PIUS C.KURIAKOSE

FRIDAY, THE 23RD FEBRUARY 2007 / 4TH PHALGUNA 1928

WP(C).No. 3083 of 2007(P)

PETITIONER:

JACKSON JOSEPH, PROPRIETOR,
COPPERFIELD PIPES, NIRMALA PLASTIC INDUSTRIES,
THANIMATTOM, MUVATTUPUZHA.

BY ADV. SRI.G.SHRIKUMAR
SRI.SREEJITH S.NAIR

RESPONDENTS:

1. THE SECRETARY, AVOLY GRAMA PANCHAYAT,
AVOLY P.O.

2. STATE OF KERALA, REP. BY ITS
CHIEF SECRETARY, GOVT.SECRETARIAT,
THIRUVANANTHAPURAM.

ADDL. R3. SENIOR ENVIRONMENTAL ENGINEER,
POLLUTION CONTROL BOARD, ERNAKULAM.
(ADDR.3 IS IMPEADED AS PER ORDER IN I.A.1595/2007
DATED 14.2.2007)

ADDL. R4. SOJAN JOSEPH, NADUTHOTTATHI.
NEAR NIRMALA COLLEGE, MUVATTUPUZHA.

" R5. P.K.OMANKUTTAN, PARAPPURATHU,
NEAR NIRMALA COLLEGE, MUVATTUPUZHA.

" R6. JOSEPH MATHEW, PEECHAAATTU
NEAR NIRMALA COLLEGE, MUVATTUPUZHA.

" R7. MOHANAN P.K. PARAPPURATHU
NEAR NIRMALA COLLGE, MUVATTUPUZHA.

" R8. ZYRIAC T.VALAVIL
COLLEGE ROAD, MUVATTUPUZHA.

- " R9. TIJU NINAN, K.KAYYALACKAKATHU,
NEAR NIRMALA COLLEGE, MUVATTUPUZHA.
- " R10. BEENA ALEX, YOHANNAN COTTAGE,
NEAR NIRMALA COLLEGE, MUVATTUPUZHA.
- " R11. V.P.JOY VETTUKATTIL,
NEAR NIRMALA COLLEGE, MUVATTUPUZHA.
- " R12. JAMES MICHLE, NAYCKAN PARAMBIL
NEAR NIRMALA COLLEGE, MUVATTUPUZHA.
- " R13. JOHNY ADUPPOOR, ADUPPOOR HOUSE,
NEAR NIRMALA COLLEGE, MUVATTUPUZHA.
- " R14. K.J.JOSEPH, KURIKAYIL
NEAR NIRMALA COLLEGE, MUVATTUPUZHA.
- " R15. SIBY SEBASTIAN, J.PULICKASSERY,
NEAR NIRMALA COLLEGE, MUVATTUPUZHA.
- " R16. CHANDRAN P.K. PARAPPURATHU
COLLEGE JUNCTION, MUVATTUPUZHA.
- " R17. RAVI.P.K. PARAPPURATHU
HOSTEL JUNCTION, MUVATTUPUZHA.
- " R18. SADASIVAN K.S., KUTTADU,
HOSTEL JUNCTION, MUVATTUPUZHA.
- " R19. BEENA SHIBU, KUNNATHUKUDIYIL,
HOSTEL JUNCTION, MUVATTUPUZHA.
- " R20. SHEENA VENU, KARTHIKA NIVAS,
HOSTEL JUNCTION, MUVATTUPUZHA.
- " R21. SUNIL VIJAYAN, PANDAN PARAYIL
HOSTEL JUNCTION, MUVATTUPUZHA.
- " R22. ARUN K.S. KANIYIDATHIL
HOSTEL JUNCTION, MUVATTUPUZHA.
- " R23. MOHANAN V.M. VENGACHUVATTIL
HOSTEL JUNCTION, MUVATTUPUZHA.
- " R24. KUNJU C.K. CHARUVELIL,
HOSTEL JUNCTION, MUVATTUPUZHA.
- " R25. RAMANAN T.R. THOYALIL,
NEAR NIRMALA COLLEGE, MUVATTUPUZHA.
- " R26. BABU.K., KARIMUNDACKAL,
NEAR NIRMALA COLLEGE, MUVATTUPUZHA.

- " R27. A.T.MATHAI,
ANAKKALIUNGAL, MUVATTUPUZHA.
- " R28. T.K.KESAVAN, THACHAMPURATHU,
NEAR NIRMALA COLLEGE, MUVATTUPUZHA.
- " R26. SIJU JOSEPH, NADUTHOTTATHIL
NEAR NIRMALA COLLEGE, MUVATTUPUZHA.

(ADDL. R4 TO 29 ARE IMPEADED AS PER JUDGMENT IN WPC)

BY G.P. SMT.T.B.RAMANI
BY ADV. SRI.R.RAGHUNANDANAN
SRI.R.RAGHUNANDANAN
SRI.P.V.JAYACHANDRAN
SMT.KEERTHI SOLOMON
SRI.M.K.CHANDRAMOHAN DAS

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 23/02/2007, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

PIUS C.KURIAKOSE, J.

W.P.(C)NO. 3083 of 2007

Dated this 23rd day of February, 2007

JUDGMENT

I.A. No.2776/2007 will stand allowed. The petitioners in the I.A are impleaded as additional respondents 4 to 29 in the writ petition.

2. I find force in the submission of Sri.G.Sreekumar, the learned counsel for the petitioner that Ext.P1 judgment of this court is binding on the first respondent Panchayat and the 3rd additional respondent - Pollution Control Board. But the learned Standing Counsel for the Panchayat would invite my attention to Section 13 (1) (b) of the Kerala Panchayat Raj Act 1966 and submit that the petitioner is operating his unit without obtaining any consent from the Panchayat and that it is generating pollution problems day and night and thereby resulting serious health hazards to the local public and that this was the situation under which Ext.P2(a) order was passed by the Panchayat.

2. While issuing notice on the writ petition even as I

granted the interim order, which was prayed for by the petitioner i.e. staying operation of Ext.P3 and P3(a), I directed specifically that the petitioner shall comply with the condition No. 3 in Ext.P3(a) i.e. the condition that consent from the Pollution Control Board shall be obtained. Sri.G.Sreekumar submits that application for consent is being filed before the Pollution Control Board.

3. Having regard to the submissions addressed before me by Sri.G. Sreekumar, the learned counsel for the petitioner, Sri.P.V. Jayachandran, the learned counsel for the respondents 4 to 29 and Sri.M.K.Chandramohan Das, the learned Standing Counsel for the pollution Control Board, I am of the view that the interim order presently passed can be permitted to continue till such time as the Pollution Control Board takes a decision on the application for consent, which will be submitted by the petitioner within two weeks from today. If the Pollution Control Board receives such application for consent from the petitioner within two weeks from today, the Pollution Control Board will after conducting necessary enquiries, hear the petitioner, a representative of the additional respondents 4 to 29 and take a

decision. It is needless to mention that if the Board is inclined to issue consent, directions regarding necessary safeguards and pollution control measures will be incorporated in the consent and all those directions will be very faithfully complied with by the petitioner. Sri. G. Sreekumar submits that Pollution Control Board should be directed to give sufficient time to the petitioner for providing the pollution control measures which may be directed by the Board, I am of the view that even otherwise the pollution Control Board will give reasonable time for complying with the directions regarding the pollution control measures. Continuation of the status quo order as already ordered by this court on 25.1.2007 will be subject to the orders to be passed by the Pollution Control Board. The Pollution Control Board will take a decision on the consent application at the earliest and at any rate within six weeks of receiving such application. Necessary local inspection will be conducted by the Pollution Control Board within seven days of receiving the consent application. The inspection will be conducted with notice to the representative of the additional respondents 4 to 29 and the first respondent Panchayat apart from the petitioner. The representative of the additional respondents and the Panchayat

shall have the liberty of convincing the engineers of the Pollution Control Board of genuine hardship, If any, being caused to them due to the operation of the unit.

PIUS C.KURIAKOSE
Judge

dpk